

1 court?

2 A. It says, "No. 3."

3 Q. Okay. That's County Court at Law No. 3.

4 A. Well, that's where it was originally  
5 filed.

6 Q. Well, I don't know. They have a one, and  
7 three scratched out, I think.

8 A. We have three on ours.

9 Q. Okay. But did it, also, show what  
10 happened in this case on 12/15/95?

11 A. It says, "The defendant entered a plea of  
12 guilty."

13 Q. Okay. On what date, again?

14 A. 12/15/95.

15 Q. And I refer you to another thing in the  
16 body of Defense Exhibit 8 that shows the  
17 judgment and sentence. You're aware of what  
18 that is, right? What does that show?

19 A. 15th of December.

20 Q. The 15th of December?

21 A. '95.

22 Q. Okay.

23 A. Where she pled guilty.

24 Q. Pled guilty and, basically, received 45  
25 days on the Spurs program, correct?

1 somebody who has failed to appear for court; is  
2 that not correct?

3 A. That's correct.

4 Q. And the docket sheet that's been  
5 introduced in Cause No. 90-5360 indicates that  
6 a capias was issued in 1990 for Miss Martinez.

7 A. That's correct.

8 Q. In other words, that indicates that a case  
9 was pending, she had failed, for whatever  
10 reason, to appear for court and there was a  
11 warrant outstanding for her.

12 A. In '91.

13 Q. In December of -- and it remained on the  
14 suspense file until December of '95.

15 A. Correct.

16 Q. And that was part of the reason for the  
17 arrest warrant being in effect at the time that  
18 you discovered the picture at the Warrants  
19 Department; is that correct?

20 A. That's correct.

21 MR. MCGUIRE: Pass.

22 THE COURT: All right.

23 MR. SKURKA: I don't have any  
24 other questions.

25 THE COURT: Then, call your next

1 A. Yes, sir, 14:55 is --

2 Q. Almost three o'clock, I think.

3 A. Yeah, almost -- 2:55 p.m. It was on the  
4 27th, the day we received the motion for new  
5 trial.

6 Q. Before you saw that criminal history did  
7 you have any idea whether or not this lady had  
8 a criminal history?

9 A. No, sir.

10 Q. And the only reason you investigated it  
11 was because of the allegations the defense made  
12 in their motion; is that correct?

13 A. That's right.

14 Q. Had she ever told you that she was on  
15 probation?

16 A. No, sir, she hadn't.

17 Q. Never said anything about that. And, in  
18 fact, does that record not show that she had  
19 been convicted of a Class A Theft and there was  
20 another Class A Theft pending; is that correct?

21 A. That's what it shows.

22 Q. And I think the records up there show that  
23 was for some type of food stamp violation or  
24 something like that, according to the  
25 complaint?

1 Q. Okay. And the -- the amount -- Well,  
2 let's see. Do you know how much -- It was  
3 about \$2200 worth of food stamps that you got  
4 that way; is that right?

5 A. No, sir.

6 Q. 2200?

7 A. Well, recently, that I went to a hearing,  
8 it was about two -- two sixty-five. I cain't  
9 remember. Well, mostly it was -- Well, yeah,  
10 it was two sixty-five, I think. I cain't  
11 remember exactly.

12 Q. Now, did you, also, take some money from  
13 the AFDC, in addition to food stamps?

14 A. That's including. No, not -- not -- It  
15 was not AFDC.

16 Q. Let me show you Defendant's Exhibit 9,  
17 back from 1990. Doesn't this indicate that  
18 you took \$1,264 in AFDC money, plus \$960 in  
19 food stamps? Can you see where I'm pointing at  
20 there?

21 A. Oh, okay, yeah.

22 Q. Isn't that what that says?

23 A. Yes, sir.

24 Q. Okay. And so, we're dealing with both  
25 AFDC funds -- How do you get the AFDC funds?

1 if she wanted to talk to you and she said she  
2 doesn't want to talk to you. I'm just  
3 communicating that to the Court.

4 MR. TINKER: It's an effort by  
5 Mr. Quintanilla's lawyer to prevent this  
6 witness --

7 THE COURT: Okay.

8 MR. TINKER: -- from talking to  
9 the defense and I object to that.

10 THE COURT: I will ask that you  
11 stay around this afternoon.

12 MR. VALDEZ: Your Honor, can --  
13 can we make it clear on the record. She's not  
14 required to talk to Mr. Tinker and you never  
15 said that she could talk to --

16 MR. TINKER: Just tell her --

17 THE COURT: You can talk to  
18 anyone you want to, if you want to.

19 MR. VALDEZ: But she's not  
20 required --

21 THE COURT: If you don't want  
22 to, then, there may be other legal proceedings  
23 where they can force you to talk to them, but  
24 you don't have to on your own.

25 THE WITNESS: Okay.

1 evident from all the testimony that has been presented,  
2 that there has not been any violation of 38.22. All of  
3 the requirements of 38.22 have been met. There is no  
4 indication of any coercion, force being used in obtaining  
5 the written statement. There may be some inconsistencies  
6 in the testimony, Judge. It's our position that those  
7 inconsistencies will go to the weight of the statement and  
8 not to the admissibility, and so we ask the Court to deny  
9 Defendant's Motion to Suppress the Written Statement.

10 MR. TINKER: Your Honor, they have the  
11 burden and it's my position that they have not met that  
12 burden.

13 I have no further argument.

14 THE COURT: All right. I have examined  
15 the document and do not believe that it should be  
16 suppressed, so it is so ordered.

17 I guess we'll see you all tomorrow. Do we  
18 have other matters?

19 MR. TINKER: Your Honor, I would like  
20 to take up the matter of the photograph, and --

21 THE COURT: Yes.

22 MR. TINKER: If you don't mind.

23 For the record, it was my request in the  
24 presence of counsel that my client be permitted to have a  
25 photograph taken, because the photographs that are being

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1 A. About two and a half pages.

2 Q. And if you see that statement today, do you  
3 think you would be able to recognize it?

4 A. Yes, sir.

5 Q. Sergeant, I'll show you States Exhibit No. 37.  
6 Do you recognize that?

7 A. Yes, sir, I do, sir.

8 Q. What is it?

9 A. It's a statement given by Yolanda Saldivar.

10 Q. Is that the statement that we've been talking  
11 about this morning?

12 A. That's correct.

13 Q. And that was the statement that she gave to  
14 you-all?

15 A. That's right.

16 Q. And is her signature -- does her signature  
17 appear at the bottom of each one of those pages?

18 A. Yes, sir.

19 Q. Is that required?

20 A. Yes, sir.

21 MR. VALDEZ: Your Honor, I offer  
22 State's Exhibit No. 37. I'm going to staple them  
23 together. Tender it to Defense Counsel.

24 MR. TINKER: Your Honor, we renew  
25 those objections that were made before concerning

1 this document.

2 THE COURT: Overruled. Admitted.

3 Q. (By Mr. Valdez) Sergeant, is this the original  
4 statement that was given?

5 A. Yes, sir.

6 Q. I know you've seen copies before, but is this  
7 the original?

8 A. Yes, sir, it's the original. Normally on my  
9 original statements I use a blue pen.

10 Q. Why do you use that blue pen?

11 A. To distinguish the original from the copies.

12 Q. Sergeant, I'm going to ask you to read that  
13 statement to the jury. Starting at the top,  
14 explain to the jury what it says at the top and the  
15 box that includes the rights that were read to her  
16 again, and then I'm going to ask you to read the  
17 statement.

18 THE COURT: Why don't we take a  
19 break?

20 Members of the jury, we'll be in  
21 recess.

22 (Recess -- 9:45 - 10:05 a.m.)

23 THE COURT: Please be seated.

24 We ready for the jury?

25 Bring in the jury.



1 brothers and sisters she had?

2 A. I don't recall the exact number.

3 Q. Did you ever promise her that she would get a  
4 lawyer?

5 A. Yes, I did.

6 Q. How did that happen?

7 A. Again, she needed to have a hope to talk to  
8 somebody else, and in this particular case there  
9 was a name that had come up, that, again, he  
10 claimed to be an attorney that had done business  
11 for the family. But on the other hand he was kind  
12 of lukewarm about he really wasn't her attorney,  
13 but he was her friend, and, so, "Use my name, but,  
14 no, don't use my name. Just say an attorney says  
15 this," and that's where I got her pet name that  
16 Selena would refer to her as Buffy came from this  
17 attorney, Richard Garza, I believe.

18 Q. And he identified himself as a family lawyer or  
19 her lawyer or how?

20 A. That he had done business for the family, but  
21 he never said specifically her lawyer, that he had  
22 done business for the family, and, of course, he  
23 was very apprehensive talking with me. But on the  
24 other hand, I stressed to him that I was not  
25 conducting the criminal investigation, I was only

1 attempting to gather information, personal  
2 information, I could use to build rapport, whether  
3 with me or Larry Young with her. So this is where  
4 he finally broke down and told me, "Well, I know  
5 the pet name that Selena would call her is Buffy,  
6 and tell her Selena doesn't want Buffy to hurt  
7 herself, and that don't use my name, but say her  
8 attorney says that to come on out and I'll help  
9 you," and that type of stuff.

10 Q. Did he ever, ever, tell you that he was  
11 representing her?

12 A. No.

13 Q. After the situation ended when she was taken  
14 into custody, did you get her a lawyer?

15 A. No.

16 Q. Why not?

17 A. Again, my responsibility, my role on the scene  
18 was hostage negotiator and beyond that that's not  
19 my prerogative nor my responsibility. My  
20 responsibility ended with the successful surrender  
21 of the offender, and then beyond that of course the  
22 regrouping of our equipment and quick debriefing.  
23 By then we were all exhausted and so it was good  
24 enough to get our equipment picked up.

25 Q. Where was she turned over to after the hostage

1 negotiation team had successfully gotten her out of  
2 truck?

3 A. From what I recall or remember she was removed  
4 from the scene by a patrol car, and in the patrol  
5 car I believe it was staffed with three SWAT Team  
6 members. It was going to be four, but the  
7 lieutenant on the unit, on the scene, the SWAT Team  
8 on the scene wanted Larry Young in the vehicle with  
9 her to facilitate her. She was also very exhausted  
10 and very weak, obviously, and he felt that it would  
11 be better to have Larry Young in there with her and  
12 that would help calm her down and facilitate the  
13 transport to the station.

14 Q. Did Larry Young go with her then?

15 A. Yes.

16 Q. After the hostage negotiation team or SWAT  
17 takes over or after they take the person, who do  
18 they then turn it over to?

19 A. It can be one or two ways. It can be a direct  
20 booking into the county jail, it can be a direct  
21 transfer to the criminal investigation division, it  
22 can vary. In this circumstance it was transferred  
23 to the criminal investigation division for safety  
24 purposes.

25 Q. And what's the procedure they do when they turn

1 can be used or appellate court can, in some  
2 intelligent way, decide whether there was  
3 something in those mental health records, the  
4 treatment records, that should have been --  
5 could have been beneficial to the accused in  
6 her defense, and that they should have been  
7 turned over. But absent your attaching those,  
8 at least, to the record, even if you don't look  
9 at them, we have no -- no way of demonstrating  
10 that.

11 THE COURT: Yeah, I understand,  
12 but I'm satisfied that the statement --  
13 Actually, I'm fairly satisfied that the  
14 statement is really, basically, all that  
15 happened. There's one -- one encounter. And  
16 there may be some dispute about that, but...

17 All right. The other matter, of  
18 course, kind of touches on what we're doing  
19 here, today. But I did have a brief meeting  
20 with the -- I forget his name.

21 MR. VALDEZ: Joel Casteneda.

22 THE COURT: I know his name. I  
23 just forgot his rank.

24 MR. VALDEZ: Sergeant.

25 THE COURT: Sergeant. He ought

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1 to be more than a sergeant. Sergeant  
2 Casteneda. I did talk to him, and I also  
3 compared what he had to what I had and I  
4 asked -- requested that he simply copy  
5 everything that he had and make it available  
6 and for in camera -- actually, I've actually  
7 inspected it. I just want it in the record.  
8 So I'll probably need an order on that, too.

9 MR. TINKER: And that's with  
10 regard to the documents which would either  
11 prove or disprove the allegation of theft, Your  
12 Honor, is that what...

13 THE COURT: I guess, that would  
14 be an adequate description, yeah.

15 MR. TINKER: I take it, again,  
16 that you're not gonna turn those over to me,  
17 Your Honor, is that what you --

18 THE COURT: Not at this time. I  
19 may turn over some of what I already have. I  
20 really haven't decided, yet.

21 MR. TINKER: Well, here's --  
22 here's the problem. They --

23 THE COURT: Excuse me. The  
24 Judge wants to confer with me.

25 (Off the record.)

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1 THE COURT: Well, you've  
2 produced the witness, so I assume that you  
3 knew -- or had some idea what the Court had  
4 done.

5 MR. TINKER: Was that the  
6 witness, the witness that Your Honor talked to  
7 ex parte?

8 THE COURT: Yeah.

9 MR. TINKER: I'm not objecting  
10 to it, but my next question is: Was there a  
11 record made?

12 THE COURT: No, there wasn't.  
13 But it was a review of his file.

14 MR. TINKER: And that's all it  
15 was.

16 THE COURT: Yeah.

17 MR. TINKER: It wasn't taking  
18 testimony from him or anything.

19 THE COURT: No.

20 MR. VALDEZ: And it wasn't with  
21 the state being present.

22 THE COURT: Oh, absolutely not,  
23 no, of course not. But I assume that, since  
24 you had produced him, that you knew that I --  
25 what I'd done.

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1 MR. VALDEZ: Yes, I figured that  
2 that's what the Court had done.

3 THE COURT: All right. So I  
4 need an order on that. So, I guess, there's  
5 three orders, depending on how you count them.

6 And as I've already indicated, last  
7 time we had something come up about a  
8 document, and I forget the context, but it came  
9 up that there was some question about it, so --  
10 that is, in all this -- these two boxes that I  
11 have from the Quintanilla interests, and  
12 somehow or another some interchange came up  
13 about a document. And I intend to turn that  
14 dock-- it's actually a document -- over to Mr.  
15 Tinker. But it was after review of the entire  
16 two boxes that I saw it and I might not find it  
17 that easily.

18 MR. TINKER: For the record, I'd  
19 just suggest that I could assist the Court in  
20 that regard.

21 THE COURT: Yeah, I'm sure you  
22 would, but, no thank you. I'll have to decline  
23 your kind offer.

24 But it will take -- I guess, it will  
25 take me almost as long -- well, no, it wouldn't

1 take as long, but I should be able to locate  
2 that. And when I do, since I'm actually  
3 turning something over, I will provide both  
4 sides with a copy.

5 MR. TINKER: Let me make one  
6 other announcement with regard to the records  
7 concerning the allegation of embezzlement that  
8 Your Honor's gonna look at in camera. I assume  
9 that means that you have not decided whether I  
10 do or do not receive that. Am I correct?

11 THE COURT: Well, I'm leaning  
12 towards giving you a portion of it.

13 MR. TINKER: I just -- I just  
14 want to encourage the Court. I am doing -- I'm  
15 gonna do my best to be ready to go to trial on  
16 the 9th of October. I plan that, and have been  
17 making arrangements where I'm gonna stay, and  
18 those kind of things, as the Court knows. But  
19 if they have taken this long to invest that  
20 allegation, if they're saying they're just now  
21 getting through with it --

22 THE COURT: Well, I think, we're  
23 really getting into the motion. Why don't we  
24 just hear the motion. I'm gonna call the  
25 motion that's set for --

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1 MR. TINKER: Let me finish  
2 making a statement with regards to discovery of  
3 the records, first --

4 THE COURT: Okay.

5 MR. TINKER: -- whether or not  
6 it's presented to the grand jury, if you don't  
7 mind, Your Honor.

8 THE COURT: Yes.

9 MR. TINKER: And it is my  
10 intention, if I am not -- if I don't have  
11 time, I just wanna sound the alarm, to -- to  
12 look at these records, at whatever time I  
13 finally get them, it is my intention to -- if  
14 I'm not ready for trial I intend to say so in a  
15 motion for continuance. And this -- this --  
16 what's happening, now, is -- and Your Honor is  
17 taking the time -- I'm just encouraging the  
18 Court to do what -- if you're gonna give it to  
19 me, I request you do so before the end of the  
20 week, so I can have some opportunity to have --  
21 to start investigating that allegation.

22 THE COURT: Well, I'll try to do  
23 that, counsel, but, you know, unfortunately,  
24 this is not the only case that the Court's  
25 dealing with.

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1 MR. TINKER: I know that, Your  
2 Honor, and that's not the only one I've got,  
3 either.

4 But, in any event, I'm ready to go  
5 forward on the motion.

6 THE COURT: Well, we'll make an  
7 effort to see what we can provide you. But,  
8 you know, I'm gonna get some guidance from this  
9 motion, I assume.

10 MR. TINKER: Well, --

11 THE COURT: So why don't you  
12 proceed with your motion.

13 MR. TINKER: Your Honor, the  
14 motion, you know, it really speaks for itself.  
15 I've said the way I feel about it in the  
16 motion. I rely on the words in there. It is  
17 my view that the -- that it's more than a  
18 coincidence that they -- and I learned, as a  
19 matter of fact -- I didn't even read it in the  
20 San Antonio paper -- that somebody told me the  
21 San Antonio paper reported that the  
22 prosecution, that this county, was gonna indict  
23 my client before the start of the trial and  
24 that they had concluded a theft or embezzlement  
25 investigation. And I think it's more than a

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1 coincidence and that that's gonna occur. I  
2 called to talk to Mr. Skurka just to asked him,  
3 "Look why don't we wait, so it doesn't cause  
4 any delay, as far as this trial is concerned."  
5 He would not deny -- he would not admit,  
6 either, that they were gonna present it, nor  
7 would he deny it. And that's what I say in the  
8 motion. It's a tactical thing, in my view, and  
9 I say that in my motion.

10 So I request a response from counsel.

11 THE COURT: Okay. Response?

12 MR. VALDEZ: Your Honor, first  
13 of all, Mr. Tinker can't get up here and say  
14 he's surprised by all this. He's known since,  
15 probably, April that this was coming.

16 MR. TINKER: I've known Mr.  
17 Valdez --

18 THE COURT: Excuse me. You're  
19 out of order.

20 MR. VALDEZ: And he can't stand  
21 up here and say he's surprised by the fact that  
22 this may be going to the grand jury. He says  
23 that he heard about the fact that it may be  
24 going anytime soon and that Mr. Skurka did not  
25 admit or deny. There's a reason for that,

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1 Judge. We're still not sure when it's going to  
2 grand jury. I don't think Mr. --  
3 Sgt. Casteneda's through with his  
4 investigation. As of last week when I spoke to  
5 him, there was a couple of more witnesses that  
6 we asked that he take statements from. As soon  
7 as those witnesses -- their statements are  
8 taken, we intend to sit down with him and look  
9 at it and see if it's ready for a grand jury  
10 presentation. At that time it will be  
11 presented to the grand jury. It may very well  
12 be before trial. It could be by Thursday. If  
13 the Court asks us to move along and do  
14 something by Thursday, I'll drop everything  
15 else I'm doing, Judge.

16 This is not the only case our office  
17 is handling. This is not the only thing we're  
18 involved in. There's a whole bunch of other  
19 things that we're involved in, at the present  
20 time, that we're working on. But, if the Court  
21 says that -- orders me to work on it, we'll try  
22 to get it done by Thursday. And it's still  
23 possible, Judge, that, even if she gets did  
24 indicted, the matters that she may be indicted  
25 for may not be relevant to the -- to the trial

1 of this case. Of course, that all depends on  
2 Mr. Tinker. Mr. Tinker will make anything he  
3 wants relevant to the case, and he'll probably  
4 wanna make this relevant. And, if he does, he  
5 may be entitled to discovery in that case,  
6 also.

7 He -- he complains, now, about  
8 something he's been complaining about for the  
9 past couple of hearings, and that's, he's been  
10 wanting to be make the theft case part of the  
11 murder case. He's been complaining about that,  
12 saying that it should be part of the murder  
13 case. It should be part of the murder case.  
14 Here's a chance that it may become part of the  
15 murder case, now, he's complaining about that.  
16 I don't know if anybody else sees that. But he  
17 shouldn't be able to get up here and argue  
18 before the Court saying, "We're surprised by  
19 this." That's not exactly what his motion  
20 says. His motion, really, is -- is in the form  
21 of a mandamus, ordering -- asking the Court to  
22 order us not to present it to the grand jury.  
23 He knows, from his extensive experience in --  
24 in the law, that there's no authority for the  
25 Court to order us not to present it to the

1 grand jury.

2 Now, he couches it like this, so that  
3 he can ask for what he's really asking for, and  
4 that's for a motion for continuance. I don't  
5 think he wants to go to trial on October 9th.  
6 I think he's asking for this -- couching it in  
7 these words, so that he blames us for the  
8 continuance.

9 We're willing to do this, Judge, and  
10 we're ready to do this, sit down with  
11 Sgt. Casteneda, see if everything is ready and,  
12 if necessary, present it to the grand jury on  
13 Thursday, give whatever the Court deems is  
14 necessary to the Court and whatever you think  
15 is -- should be turned over to the defense, you  
16 can turn it over to the defense. We wouldn't  
17 have any objection to that. But that's where  
18 we are right now.

19 THE COURT: Let me ask you a  
20 ques-- Have you concluded?

21 MR. VALDEZ: That's fine.

22 THE COURT: Let me ask you a  
23 question: Do you wanna go to trial on the 9th?

24 MR. VALDEZ: We're ready to go  
25 to trial tomorrow.

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1 THE COURT: Okay. Have you  
2 assessed the possibility of the complica-- I  
3 mean, it's totally your discretion --

4 MR. VALDEZ: Yes, sir.

5 THE COURT: -- as the Court  
6 understands. And I haven't heard the closing  
7 comment, but I brought up the case of  
8 Dimbrowsky. You know, Dimbrowsky's the only  
9 case I've ever heard of where an injunction is  
10 permissible, and that -- you know, I don't  
11 think you've made the allegations come within  
12 that case.

13 MR. TINKER: For the record,  
14 you're directing that response to me?

15 THE COURT: Yeah.

16 MR. TINKER: Your Honor, I,  
17 frankly, don't believe that Your Honor has the  
18 authority to order them not to present  
19 something to the grand jury, at least, not  
20 this. There are some cases just recently out  
21 of Lubbock, Texas -- Amarillo, rather, where  
22 Miller Farmer was -- they were trying to indict  
23 him and it was stopped -- actually, it was a  
24 petition in the federal court, but it was a  
25 state court proceeding. But I don't -- I don't

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1 suggest you have the power to do so. What I do  
2 suggest is, Your Honor, that you have the --  
3 the -- as a matter of fact, I do believe you  
4 have the power, if, in some way, it affects  
5 your jurisdiction as far as the trial of this  
6 homicide allegation is concerned, but, what I  
7 would hope, by this hearing, is that Your Honor  
8 would make suggestions to the prosecution  
9 concerning their effort -- this effort on their  
10 part, as I've alleged in the indictment (sic)  
11 and counsel with them in that regard, so we can  
12 avoid any delay.

13 I don't -- Is it my turn to respond  
14 to what counsel said?

15 THE COURT: Well, no. I really  
16 haven't finished.

17 MR. VALDEZ: Did you have more  
18 questions, Judge? Our position is that the  
19 motion should be denied. And that's what we're  
20 asking, is that the motion for continuance be  
21 denied and that we go ahead with the trial on  
22 October 9th. We're ready to go.

23 THE COURT: Okay. You can  
24 close.

25 MR. TINKER: Well, Your Honor,

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1 first, it's -- it's interesting. Counsel has  
2 said that I have tried to get embezzlement in  
3 the trial. Counsel -- the Court knows, counsel  
4 has always said that they intend, through  
5 Mr. Quintanilla, to say, in the trial -- trial  
6 on the merits, their case, that my client had  
7 been stealing from some entity of Selena's or  
8 Mr. Quintanilla. They've all long said that.  
9 And every time they say that, I say, "Well, I  
10 would want the records, so that I can defend  
11 from that accusation." That's been my position  
12 all along. I don't think that's part of the  
13 case. I don't believe it to be true. But if  
14 they're gonna -- if they're gonna just permit a  
15 witness to make a bald statement -- bald-faced  
16 statement like that, I've long said that I want  
17 those records.

18 They now -- and the Court will recall  
19 that, at the first hearing we ever had, they  
20 said they'd have those records by July the 1st,  
21 or early in July. I can't remember if it was  
22 July the 1st, or not. They didn't have those  
23 records. They said, "Well, there's a lot of  
24 records and it's taking a long time." I have  
25 always said, in each of these hearings, I need

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1 to get those things, so that I can prepare a  
2 defense, in this case. I've been saying that  
3 since the first pretrial hearing.

4 Counsel, interesting to me, knows  
5 that my motion says that I don't want the case  
6 presented to the grand jury, because of the  
7 effect it might have on this trial, and he  
8 seems to think that I'm asking that Your Honor  
9 speed it up. He's saying, well, Your Honor  
10 wants us to speed it up.

11 I -- I -- The paper quotes counsel as  
12 saying that this case will be -- this morning's  
13 paper -- that this case is probably gonna be  
14 presented for indictment, this em-- this  
15 embezzlement case, this Thursday. Now, once  
16 that occurs, it's claimed by these lawyers for  
17 the prosecution that they have an open file  
18 policy in their office. And I assume that once  
19 that happens, they will not change that policy,  
20 as far as this defendant is concerned, but I  
21 need those records.

22 If they're gonna present it to the  
23 grand jury, it's my opinion that doing that --  
24 and I'm gonna ask for ask for -- if she gets  
25 indicted, I'm gonna ask for a continuance, and

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1 I'm gonna Your Honor to rule on that issue, of  
2 course, because I'm not ready. They've already  
3 said, again, that they intend to -- and I'll  
4 ask counsel to respond. Has he said and does  
5 he intend to introduce this during any part of  
6 the trial the evidence concerning this  
7 embezzlement? Counsel is quoted in the paper  
8 as saying they're gonna do it in the punishment  
9 phase, if there is a punishment phase in the  
10 case. I'm entitled to prepare a defense from  
11 those kind of accusations and that's the  
12 position I take.

13 THE COURT: All right. I'm  
14 gonna deny the motion. Incidentally -- and I'm  
15 not -- I'm not saying anyone's violated it, but  
16 I'm gonna give y'all a little assignment.  
17 Y'all remember my letter several months back?  
18 I would like for y'all to review that letter,  
19 from time to time. Maybe once a week between  
20 now and trial.

21 That is all.

22 MR. VALDEZ: Judge, there's a  
23 couple of other matters.

24 THE COURT: I didn't realize  
25 that.

1 Book," that's kept by the people at the fan  
2 club?

3 A. It was a lot of colored notebooks. I  
4 don't know. They were all kinds of colors.  
5 But there was a blue book.

6 Q. And how large of a -- and how many  
7 documents or how many of these books were kept?

8 A. There's about five books.

9 MR. VALDEZ: Excuse me,  
10 Your Honor, at this time, I'm going to object  
11 to -- to the relevancy of this line of  
12 questioning. It's all very interesting, but --  
13 but we're here to determine whether or not the  
14 subpoenas issued to Mr. Quintanilla should be  
15 quashed, and this is turning into another  
16 fishing expedition to try to find out some --  
17 he's turned this into an evidentiary hearing,  
18 Judge, and -- and we object to any other  
19 questions on this issue.

20 THE COURT: Where are we  
21 heading, sir?

22 MR. TINKER: If you'll let me  
23 ask the questions, I'll show you, Your Honor.  
24 What I'm gonna prove through this witness is  
25 that Mr. Quintanilla, because of a conflict

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1 with Yolanda, came and got all of the fan club  
2 records, and I think that's relevant to them  
3 saying that they don't have certain records.  
4 And I think that Your Honor should want to hear  
5 about that.

6 MR. VALDEZ: If he asked her  
7 that, that's fine, Judge.

8 MR. TINKER: Well, could I --  
9 could I do that?

10 THE COURT: Yeah.

11 Q. (By Mr. Tinker) I was asking you how  
12 large -- or how many notebooks did you have?

13 A. There was about five -- about five  
14 notebooks and most of them were empty.

15 Q. Okay. But they were -- and those that had  
16 writing in them, was that writing done by you  
17 and, also, Yolanda?

18 A. No. We had a red book where we had rules  
19 that each officer had to sign, but that was the  
20 only thing that I ever got to sign.

21 Q. What did these notebooks -- what did these  
22 books contain? What did --

23 MR. VALDEZ: Excuse me,  
24 Your Honor. Same objection. He still hasn't  
25 asked a question. And he wants to get as much

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1 information as possible, using this hearing,  
2 which really has nothing to do with the matter  
3 at hand, here, so we object, again.

4 THE COURT: Overruled. Go  
5 ahead.

6 Q. (By Mr. Tinker) What was contained in the  
7 books?

8 A. I didn't see them, till -- there was some  
9 for a special event; there was contributions,  
10 which was empty; the rules and regulations of  
11 each officer, that we signed, that we would not  
12 use Selena's name to get items from, like,  
13 Coca-Cola or things like that.

14 Q. But did -- were there other records, other  
15 than those books, that Mr. Quintanilla picked  
16 up?

17 A. No, that was it.

18 Q. Were there other records kept there that  
19 -- in your home, other than those that  
20 Mr. Quintanilla picked up, concerning the fan  
21 club?

22 A. No. I just gave him fan club stuff. I  
23 don't have anything else.

24 Q. You just gave him what?

25 A. The fan club notebooks. I don't have

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1 that of Mr. Quintanilla. These are records  
2 that he, certainly, doesn't have any standing  
3 for any possessory interest. Now, if he wants  
4 to have Articles of Incorporation -- he asked  
5 for Articles of Incorporation -- those are  
6 public records. Those can very well be  
7 obtained by contacting the Secretary of State,  
8 which, for a small fee, they'll be more than  
9 glad to provided them for him.

10 So I submit to the Court, they're so  
11 broad, so encompassing, so devastating,  
12 Your Honor, for a family to be going out there  
13 and say, "All right, let's go out there and  
14 dream up why we're saying these things and give  
15 it to the defense."

16 We have turned over, Judge -- before  
17 I came into this case -- we have turned over  
18 some documents to the state. I don't know what  
19 they were. I don't know if they were Bate  
20 stamped for any control, but I'm more than sure  
21 that whatever we gave to the state Mr. Tinker  
22 can obtain from the state. If I give anything  
23 to Mr. -- to -- to the state, I'm more than  
24 sure that they are duty-bound, pursuant to the  
25 Rules of Discovery, to turn them over to -- to

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1 opportunity to provide similar legal  
2 authority -- I think, I can deal with this  
3 matter much more efficiently when I have  
4 well-grounded myself in the relevant legal  
5 principles.

6 MR. TINKER: Again, Your Honor,  
7 I do request that whatever records that this  
8 lady gave -- whatever they were, they gave to  
9 Mr. Canales' client, Mr. Quintanilla, I want  
10 those made available to the Court for in camera  
11 inspection and I want --

12 THE COURT: Well, I think you're  
13 entitled to that.

14 MR. CANALES: Sure. Sure.

15 MR. TINKER: I'm sorry?

16 THE COURT: I think you're  
17 entitled to that.

18 MR. CANALES: Sure. I'll keep  
19 them in my office, Judge.

20 MR. TINKER: Your Honor, I don't  
21 want them kept in his office. I'd like them  
22 kept in your office.

23 THE COURT: Well, he knows what  
24 "in camera" means.

25 MR. TINKER: You --

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1 THE COURT: You will provide  
2 them to the Court for my inspection.

3 MR. CANALES: Sure.

4 MR. TINKER: All the records  
5 we've requested that they have. And I'd like a  
6 notation --

7 THE COURT: Well, let's just  
8 start with that, Mr. Tinker, if you don't mind.  
9 I'm not -- I'm not cutting you off, at this  
10 point, but I'm gonna start off with that and  
11 see where this is going.

12 Anything else?

13 MR. TINKER: Well, I have a  
14 number of questions, Your Honor, but --

15 THE COURT: Well, --

16 MR. TINKER: -- Your Honor  
17 ruled --

18 THE COURT: I'm ruling that you  
19 cain't do it right now. I'll provide that  
20 opportunity.

21 MR. TINKER: That's all the  
22 questions I have of this witness.

23 THE COURT: All right. Anyone  
24 else have any questions?

25 MR. CANALES: None, sir.

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1 the police are constructively in your file.

2 Do you know if they exist?

3 MR. VALDEZ: I don't know if they do.

4 THE COURT: Well, at least inquire.

5 MR. VALDEZ: Anybody? That is not  
6 relevant to anything at all? Anything that the police  
7 have turned over? Is that what the rule is? Because the  
8 other objections about relevancy, the defense is looking  
9 for an opportunity to create something out of nothing.

10 THE COURT: Find out if they exist.

11 MR. TINKER: If the prosecution and law  
12 enforcement people think it is important enough for them  
13 to look at in their information, preparation of this case  
14 and trial, I'm entitled to look at them, too. And counsel  
15 has no control over those.

16 MR. VALDEZ: If we have not looked at  
17 them in preparation of this trial -- because we have not  
18 looked at them.

19 MR. TINKER: What's the Court's ruling?

20 THE COURT: My ruling is, you're to  
21 inquire if they have them.

22 And then you have turn them over to me en  
23 camera, or turn them over to Mr. Tinker.

24 MR. VALDEZ: I'll do that, Judge. I'll  
25 turn them over to the Court for inspection.

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1 Copies of any and all audio and/or video tape recordings  
2 regarding the stand-off and any --

3 THE COURT: Yes, that's correct.

4 MR. TINKER: Number 24, Your Honor, is  
5 any and all records, documents or summaries -- this is to  
6 the claim of embezzlement. And we have already spoken to  
7 that, and it's my understanding that you're going to look  
8 at those documents.

9 THE COURT: I have told them to find  
10 out if they have any and to turn them over to me en  
11 camera.

12 MR. TINKER: And you still have under  
13 advisement the subpoenas that I have requested for the  
14 same records?

15 THE COURT: Well, one of them is not  
16 under advisement. I told Mr. Canales to give me the fan  
17 club records. And I expect those -- I still have not  
18 gotten them, but I expect them. I either expect those, or  
19 Mr. Canales knows what to do if he doesn't want to do it.

20 MR. TINKER: Well, in any event, are  
21 the other subpoenas of records, requests, are they still  
22 under advisement?

23 THE COURT: Absolutely.

24 MR. TINKER: Okay.

25 MR. VALDEZ: Judge, on Number 24, it's

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1 policy consideration. I don't have any business going  
2 through, being in the --

3 MR. TINKER: May I respond? All I want  
4 is a ruling from the Court.

5 THE COURT: Yes.

6 MR. TINKER: The Court knows already  
7 that they are going to let Mr. Quintanilla, and perhaps  
8 others, -- and Paul Rivera has already said it -- say that  
9 they believe my client is embezzling. And, Your Honor,  
10 then is ruling that during the trial of this murder  
11 case, -- and Your Honor is ruling that I don't get to see  
12 the files that would reflect one way or the other whether  
13 or not that is the truth.

14 THE COURT: Well, that's not entirely  
15 correct.

16 MR. VALDEZ: I may be able to help the  
17 Court --

18 MR. TINKER: No, let me finish.

19 Is that --

20 THE COURT: It's not entirely correct,  
21 Counsel, because I have said I want any records that have  
22 been turned over by the Quintanillas or any entities  
23 connected with the Quintanilla family.

24 MR. TINKER: Well, my only request is  
25 that you're going to look at those en camera and make a

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1 decision what I'm entitled to. I'm requesting that all  
2 the records -- whether they're reports, whether they're  
3 summaries by investigating officers -- if Your Honor is  
4 not going to look at them, I am requesting that they be  
5 sealed, and write on there: "Tinker didn't get to see  
6 this in preparing his defense," and be made part of the  
7 record so that if Your Honor won't look at them, maybe  
8 some appellate court will, if that's necessary in the  
9 future.

10 THE COURT: I'll consider that, but I'm  
11 not going to require it right now. You will have an  
12 opportunity to do that. Right now, I want to see records  
13 from the Quintanillas en camera if they have been turned  
14 over.

15 MR. TINKER: Well, --

16 THE COURT: We do have some evidence  
17 that they have been turned over.

18 MR. VALDEZ: They are in police  
19 custody, some records, Judge.

20 THE COURT: All right.

21 MR. VALDEZ: And whatever they have,  
22 we'll bring to the Court.

23 THE COURT: All right.

24 MR. TINKER: Your Honor, Number 25 is  
25 any records reflecting that the deceased had had

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1 MR. VALDEZ: Yes, I figured that  
2 that's what the Court had done.

3 THE COURT: All right. So I  
4 need an order on that. So, I guess, there's  
5 three orders, depending on how you count them.

6 And as I've already indicated, last  
7 time we had something come up about a  
8 document, and I forget the context, but it came  
9 up that there was some question about it, so --  
10 that is, in all this -- these two boxes that I  
11 have from the Quintanilla interests, and  
12 somehow or another some interchange came up  
13 about a document. And I intend to turn that  
14 dock-- it's actually a document -- over to Mr.  
15 Tinker. But it was after review of the entire  
16 two boxes that I saw it and I might not find it  
17 that easily.

18 MR. TINKER: For the record, I'd  
19 just suggest that I could assist the Court in  
20 that regard.

21 THE COURT: Yeah, I'm sure you  
22 would, but, no thank you. I'll have to decline  
23 your kind offer.

24 But it will take -- I guess, it will  
25 take me almost as long -- well, no, it wouldn't

1 do anything?

2 A. Yes, I did.

3 Q. What did you do?

4 A. I went to San Antonio and I recovered all  
5 the --

6 MR. TINKER: Your Honor, may we  
7 approach the bench?

8 (Discussion at the bench.)

9 MR. TINKER: Your Honor, we attempted  
10 to discover these records, we were prohibited from  
11 doing so.

12 Well, you gave us records; but  
13 they're not these fan club records that he  
14 obtained.

15 They filed a motion to suppress. All  
16 we got was what the District Attorney's Office had,  
17 not what this witness had. At the time, counsel  
18 said we're just going to ask him if he suspected  
19 embezzlement, he said. They're going into details  
20 of this and we don't have any records to look at.  
21 We tried to find them ahead of time.

22 MR. VALDEZ: I haven't asked him  
23 anything about records.

24 MR. TINKER: Well, he just asked  
25 him: Did you go? And he said he went and got

1 records. And I'm saying that we tried to discover  
2 these and have not been able to do so.

3 THE COURT: At this time, I don't  
4 sustain the objection to this line of questioning,  
5 but any details about it I would.

6 Q. (By Mr. Valdez) Mr. Quintanilla, as a result  
7 of your further investigation in this matter, did  
8 you form an opinion or form any suspicions about  
9 the activities of Yolanda Saldivar?

10 A. I did.

11 Q. What were -- what was that opinion or  
12 suspicion?

13 A. That she was taking money from the fan club.

14 Q. And did you take any action after that, after  
15 you formed this suspicion?

16 A. I talked to her and told her that I wanted to  
17 bring all the records to our office. And that from  
18 this point on that we were going to run the fan  
19 club through our office, because Selena's image was  
20 being tarnished because people were blaming her.

21 Q. Did you talk to her in person or on the phone?

22 A. In person, there in our office.

23 Q. Do you remember when that meeting occurred?

24 A. You're talking about the first -- the very --

25 Q. The meeting that you're talking about, when you